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Preparation for the Delivery of Telemental Health Services with Individuals who are Deaf: Informed Consent and Providers Procedure Guidelines

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PREPARATION FOR THE DELIVERY OF TELEMENTAL HEALTH SERVICES WITH INDIVIDUALS WHO ARE DEAF: INFORMED CONSENT AND PROVIDER PROCEDURE GUIDELINES

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Abstract

Telemental health continues to emerge as the new wave of the modern health care delivery system, and psychotherapy sessions will routinely take place with geographically distant therapists and clients who are deaf or hard of hearing. Consequently, there is a critical need for best practices for such services including the development of informed consent and provider procedure guidelines for the telemental health delivery system serving this population. Sample informed consent forms and telemental health service guidelines are provided.

Keywords: telehealth, ethics, informed consent, distance counseling

Introduction

A decade ago, telemental health service delivery was considered to be the newest and most significant development within the modern health care delivery system (Bashir, 1997; DeLeon, Sammons, Frank, & VandenBos, 1998). This is still true today as the federal government continues to fund initiatives to expand the delivery system because of the cost savings from this type of service, which is well documented in the general literature (Bloch, 2009). Another factor contributing to the growth of telemental health is the ability to be reimbursed for service rendered through third party payers (Glueckauf, Pickett, Ketterson, Loomis, & Rozensky, 2003), particularly in rural areas.

Telehealth is generally defined as the use of telecommunication, information technology, and videoconferencing to provide services such as health assessments, diagnosis, intervention, consultation, supervision, education, and information (Zarate, Weinstock, Cukor, Morabito, Leahy, Burns, & Baer, 1997; Nickelson, 1996; 1998). For this article, the term *telemental health* is used to define the provision of psychotherapy via videoconferencing.

With advances in telemental health applications for the general population in recent years, there is noted growth in the provision of telemental health services to people who are deaf and hard of hearing in many states and countries in various clinical settings (e.g., Austen & McGrath, 2006; Davidson, 2005; Gournaris & Leigh, 2004; Gournaris, Hamerdinger, & Critchfield, 2009; Kwong Tang, Chiu, Woo, Hjelm, & Hui, 2001; Whitten & Rowe-Adjibogoun, 2002). Moreover, Gournaris and Leigh (2004) conducted a study to determine if direct communication using American Sign Language (ASL) is different in face-to-face versus videoconferencing mediums. There was no significant difference between the face-to-face and video-mediated communication conditions in terms of accuracy, request for repetitions, timing, clarity, and flow of conversations, suggesting that deaf participants were consistent with their understanding of dialogues in both situations. Although this study did not directly evaluate the effectiveness of telemental health services, the finding hold great promise for people who are deaf and hard of hearing in terms of obtaining mental health services through interactive videoconferencing. It is important to note that telemental health services are not intended to replace such services that are given in face-to-face sessions, but to give an alternative to both clients and therapists in order for the services to take place from a distance. For the purposes of this article, the term "deaf" is used to represent people who are deaf and hard of hearing.

The main objective of this article is to (a) offer a description of practices of telemental health services serving the deaf population, (b) discuss the need of developing a *separate* informed consent form for telemental health delivery services when preparing to serve deaf clients, and (c) to create sound procedure guidelines for providers ensuring best practices in telemental health services.

Informed Consent

It is widely known that therapists are ethically and legally bound to begin a therapeutic relationship after initiating a process of informed consent with the client. The informed consent is "a shared decision-making process in which the professional communicates sufficient information to other individuals so that she or he may make an informed decision about participation in the professional relationship" (Barnett, Wise, Johnson-Greene & Bucky, 2007, p. 179). The author further explained that the very purpose of the

informed consent is to provide potential clients sufficient information about the services provided and to weigh the potential benefits and risks of services that the client is seeking. He also argued that informed consent has evolved over the years through court verdicts and stated, "informed consent should be viewed as a process, not as a single event" (p. 180). Bucky (2007) agreed with Barnett's assessment and recommended that therapists remain open to acquiring new ways to ensure that the informed consent process is consistent to the code of ethics of one's profession. Johnson-Greene (2007) further emphasized that informed consent is not a onetime event, but rather a process that requires an ongoing exchange of information that also should be documented in the client's chart, ensuring that the client is given the opportunity to understand the process over time and that active interchange of information has occurred between the therapist and the client.

A study by Passche-Orlow, Taylor and Brancati (2003) examined the informed consent forms used in 114 medical centers in the United States and found they were written at a 10.6 grade level. The authors stressed that using appropriate language that is understandable to the client is *not* adequate. They suggested that therapists must actively ensure that each client understands the information presented and might ensure this by asking the client to summarize information conveyed during the informed consent process. Barnett et al. (2007) emphasized that merely asking if the client understands or if this person has any questions is not sufficient for meeting the legal obligation. Since telemental health is still in its infancy, therapists who work with clients who are deaf meet face-to-face for the initial appointment to determine if they are viable candidates, to ensure they understand the process of informed consent in terms of receiving mental health services, *and* to ensure they understand the benefits and risks of receiving such services via videoconferencing. Therefore, a separate informed consent process should be conducted. Several professional associations have identified the need for changes to informed consent when the services are provided to a client from a geographical distance (e.g., American Medical Association, 2003; American Psychological Association, 1997; National Board for Certified Counselors, 2001). To limit liability and to protect clients, providers of telemental health services must, to their best ability, disclose risks as well as possible benefits and engage clients in an active dialogue. A thorough informed consent procedure allows deaf clients to make an educated decision about whether telemental health services are right for them. The consent form to participate in a telemental health delivery system should at least include basic areas such as (a) description of telemental health services, (b) security risks, (c)

therapeutic benefits, risks, and limitations, (d) general ground rules, and (e) client contingency plans. Full-written samples for informed consent to participate in a telemental health service delivery system can be found in Appendices A and B. The informed consent in Appendix B is a simplified form that may benefit clients with minimal reading skills. Therapists should tailor forms to meet agency policies or solo provider's standards of care.

Provider Procedure Guidelines

The majority of mental health providers should already have guidelines in place related to providing mental health services on-site, ensuring quality control, proper practices, and better risk management. One should consider reviewing the existing guidelines and incorporate new procedures tailored specifically for telemental health services. Ethically and legally, it is not sufficient to have clients who are deaf sign the informed consent for telemental health services. Each provider should develop procedure guidelines to ensure best practices for telemental health services. Guidelines could include such areas as (a) practicing within state regulations, (b) client selection criteria, (c) informed consent, (d) privacy and confidentiality, (e) client assessment, (f) client education, (g) administrative procedures, and (h) emergency procedures.

Practicing within State Regulations

Before determining whether to offer telemental health services to individuals who are deaf in a remote location, state and county regulations must be considered. Understanding of the state laws or county policies regarding these types of services is important when offering services across state or county lines. The majority of states require licensure if a therapist is conducting more than a minimal consultation with regard to a deaf client living in another state. Even if licensed by one's own state, some counties prohibit providers from providing services across county lines because of the reimbursement issues related to county boundaries. It is also imperative for providers to check with their state licensing boards for state statutes on telemental health services before proceeding.

Client Selection Criteria

To ensure best possible treatment for clients who are deaf and to minimize potential liability, sound clinical judgment is vital to client selection for

telemental health services. One must consider all factors, not limited to the distance between the client and therapist. Consider the feasibility of providing the following from a distance: client's diagnoses, acuity and cognitive skills, therapist's familiarity with the client, client's likelihood of hospitalizations, or probability that suicide and hospitalization could be prevented with a video emergency session, and therapist's competency in dealing with unexpected crises. If it is believed that the client may require psychiatric hospitalizations based client's past history or services might be better delivered in person, then an appropriate referral to the nearest provider should be made.

Informed Consent for Telemental Health Services

The informed consent of using the videoconferencing equipment for mental health services is probably the single most important event for both deaf client and therapist prior to establishing a therapeutic relationship. This would be the opportunity for the therapist to provide full explanation of the risks and benefits of the service to the deaf client. The client should also be informed that they may terminate the use of telemental health services at any time if this type of service is found to not be beneficial. In order to fulfill the legal and ethical obligations, the therapist should have the client summarize their understanding of the informed consent for this type of service.

Working with clients who are deaf with language dysfluency may be challenging during the informed consent process. Dysfluent deaf clients are not fluent in either ASL or English (Glickman, 2009). For the majority of dysfluent deaf clients, treatment provided face-to-face is usually best. However, to provide telemental health services to that population, therapists must have near native skills (or better) in ASL and they must ensure that clients are comfortable and competent enough to utilize video technology as a communication tool. Because of the shortage of bilingual therapists in the field, there will be therapists who may require an ASL interpreter to facilitate effective communication. These therapists should also consider using a Certified Deaf Interpreter (CDI) to accompany the ASL interpreter. A CDI is a deaf individual who specialize in the use of gesture, props, or other tools to enhance communication when clients have minimal or no understanding of ASL. Utilizing a CDI may help the therapist, ASL interpreter, and client who is dysfluent to communicate better during sessions. In addition, therapists must ensure the informed consent process is communicated in a form that

clients who are dysfluent and deaf can understand. In doing this, therapists may break down each concept from the telemental health informed consent form into simpler terms, or utilize relevant illustrations from the CD-ROM developed by Michael Krajnak that comes with Glickman's (2009) book (see the Legal subfolder). Finally, showing the clients the videoconferencing equipment and demonstrating how telemental health services take place may be helpful.

Privacy and Confidentiality

The client must sign the standard informed consent to receive treatment in addition to, not in lieu of, the informed consent to receive telemental health services. During this process, the deaf client will be educated about client privacy, confidentiality, and the limitations of confidentiality. It is also important for therapists to inform clients that others do not view video counseling sessions without permission of both parties. More importantly, deaf clients should understand that the therapist does not record video sessions without prior written consent. The therapist must consider common courtesy for the client. For example, if personnel or visitors enter the room, the therapist must inform the client, even when they cannot be seen on the video screen.

Client Assessment

To determine if the deaf client is a good fit for telemental health services, it is strongly encouraged that an initial intake assessment takes place in a face-to-face meeting. If distance is an issue for both parties, the therapist should arrange for a face-to-face assessment at a hospital, regional office, clinic, or a neutral site that is halfway between the therapist and the client. If it is not possible to meet the client face-to-face for an initial intake appointment, the therapist should take additional precautions if the intake appointment is conducted via videoconferencing.

Client Education

Not all clients who are deaf have experience in using videoconferencing equipment, so client education should take place if such training is warranted. This will give the clients an opportunity to learn how to use the equipment and receive instructions as to who to ask for help in case technical problems

should arise. In addition, this may aid the deaf clients in understanding that video equipment is used only for telemental health services, not for personal calls, especially when the client travels to a designated videoconferencing site.

Administrative Procedures

The therapist must take into account several important administrative procedures in preparation for telemental health services. Video connection tests should be completed prior to the first appointment, to ensure video quality. This is especially important when the therapist is connecting with a new video site. Appropriate measures should be in place to ensure continuity of care with the deaf client if the video equipment should fail, such as making a TTY call, e-mailing, instant messaging, texting, etcetera, in every effort to re-connect with the client. To ensure confidentiality, the therapist must make sure secure lines are used and no identifying client information is stored on the videoconferencing equipment, deleting all dialed calls, calls received, and missed calls after each use. Providers should also document changes in frequency or termination of telemental health services in the deaf client's chart, just as one would with face-to-face sessions. Therapists must also check with one's liability insurance company to ensure that coverage is also in place, because not all liability insurance will cover telemental health services.

Emergency Procedures

An ethical therapist must establish a contingency plan for emergencies, such as video equipment failure and on-site needs for security/police back-up. Using the back-up equipment is recommended, so the deaf client and the therapist are able to maintain contact in the event that the video connection is interrupted. It is necessary that the therapist have a connection with law enforcement near the client's site in the case of a suicide attempt. In doing this, the law enforcement may be able to help with removing any access to suicidal means (e.g. remove a weapon) or transporting the deaf client for hospitalization. More importantly, providing telemental health services to a deaf client at home may increase risk for liability. The therapist should carefully select sites with videoconferencing equipment where staff is present in case of an emergency. Examples include regional offices or designated videoconferencing sites with signing staff that are well versed in mental

health or human services. A sample of procedure guidelines for providers is located in Appendix C. Again, the agency or solo provider should customize documents to meet general requirements or standards of care.

Conclusion

Telemental health services are a viable option for clients who are deaf and hard of hearing, especially with the increasing evidence showing the equivalency of video and face-to-face communication. Several professional organizations such as the American Psychiatric Association, American Psychological Association, and National Board of Certified Counselors have supported the use of telemental health services when utilized appropriately. Liability is minimized by getting clients who are deaf to participate in the informed consent process for using video technology to receive mental health services. Furthermore, providers must use sound clinical judgment regarding client selection criteria and plan for contingencies in cases of technological interruption or psychiatric emergency. Future analysis and research should focus on the outcomes of, and the systemic impact on, telemental health services when serving clients who are deaf and hard of hearing. Finally, with the advances in video technology and diminution of costs, the telemental health delivery system for this population will likely become more available. Using the information obtained from careful outcome analysis and research, we will be better able to understand and lobby for the optimal clinical and legal regulations to support telemental health that will benefit the community we serve.

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Appendix A

I, _____ (client name) agree to participate as a client of _____'s (provider name) telemental health delivery system. I will be receiving mental health care services through interactive videoconferencing. I understand the use of videoconferencing is a new method of mental health care delivery and that my therapist will not be physically in the same room with me.

I understand that although _____ (provider name) makes every effort to protect my privacy by using a secure server, they cannot guarantee the security of any information I transmit to them (or a linked site) over the Internet. By using video mental health services, I recognize that transmissions over the Internet are at my own risk and that third parties may unlawfully intercept or access the transmissions, despite _____'s (provider name) best efforts to maintain high security. I also understand that despite reasonable efforts on the part of my therapist, there are risks and consequences in using telemental health. Risks include, but are not limited to, the possibility that the transmission of my sessions could be disrupted or distorted by technical failures. In case of technical failures, my therapist will make every effort to re-connect with me by making a TTY call, e-mailing, instant messaging, texting, etc.

In addition, I understand that telemental health-based services and care may not be as complete as services provided via face-to-face. Although, some benefits of telemental health have been identified such as increased access to specialized services in remote areas, lower healthcare costs, reduced travel, minimizes time off work, and decreased waiting time for services. I have also been notified that if my therapist believes I would be better served by another form of counseling services (e.g. face-to-face services), I will be referred to a therapist who can provide such services in my home area. Finally, I understand that there are potential risks and benefits associated with any form of mental health services and that, despite my efforts and the efforts of my therapist, my condition may not improve and in some cases may even get worse. I understand my participation in this is voluntary and I may decide to terminate my treatment at any time. My privacy and confidentiality will be protected. I understand that there will be no recordings of the therapy sessions. I also agree

not to record my own therapy sessions without my therapist's knowledge or permission.

I understand that the video equipment at the site is used for telemental health services only, not for personal calls or relay calls.

I give my consent to receive mental health services through videoconferencing; I also understand the services I receive will become part of my treatment record at _____ (provider name). I have discussed it with my therapist, and all of my questions have been answered to my satisfaction. I have read this document and I hereby consent to participate in _____'s (provider name) telemental health delivery system under the terms described above.

_____
Client Name (PRINT)

_____ _____
Client Signature Date

Appendix B

I, _____ (client name) agree to get counseling with _____ (provider name) through videophone (VP) meetings. I understand that my counselor will not be in the same room with me.

I understand other people may try to watch my counseling session without my permission. _____ (provider name) will do their best to keep the counseling sessions private but cannot make any promises. I also understand that the VP can break down or not work right, and I may not be able to see my counselor that day. When the equipment breaks down, my counselor will contact me through a TTY call, e-mail, instant message, fax, or text.

I also understand that counseling through VP is not the same as face-to-face counseling. A good thing about using VP is that I do not have to travel far to see my counselor if they are in another town. It can be cheaper to meet by VP. I also understand that using VP for counseling may not work for me. It may be better for me to see a counselor in person. If this happens, I will be referred to another counselor. I understand that counseling does not work for everyone. I may not get better from counseling and I may even get worse. I can stop at any time. My information will stay private. I also understand that my sessions will not be videotaped. I also agree not to videotape my own sessions without my counselor's permission.

I cannot use the VP at _____ (provider name) for personal calls or relay calls.

I agree to get counseling through VP. I understand this form will also be in my file at _____ (provider name). I have talked with my counselor about all of the things in this form and I am satisfied with the answers that I got. I have read this form and I agree to get counseling through VP with _____'s (provider name).

_____
Client Name (PRINT)

_____ _____
Client Signature Date

_____ _____
Legal Guardian Signature (if applicable) Date

Appendix C
Telemental Health Guidelines

State Regulations
1. Check with state regulations or statutes and county policies related to the provision of telemental health services. Also, it is important to check with the state licensing board of one's chosen profession and see if any additional steps are required, such as completing some form of registration or obtaining a special telemental health license or certification, prior to setting up services.
2. Check with state's third party payers for service codes for reimbursement and to learn about any regulations regarding this type of service.

Client Criteria
1. Standard client enrollment and procedures must be established.
2. The videoconferencing equipment used should be based on the client's clinical needs and functional ability to use the equipment.
3. Telemental health services should be considered if the client lives in a rural area with limited transportation.
4. Telemental health services should not be conducted when a deaf client is at a private home.
5. Exceptions may apply based on case-by-case basis and the unique needs of a particular client. The Program Supervisor will make the final determination.
6. Careful selections of sites with videoconferencing equipment must be considered where staff is present in case of an emergency (e.g., regional offices or designated videoconferencing sites with signing staff).
7. High-risk clients should not participate in telemental health services; in those cases, appropriate referrals must be made. General exclusion criteria are as follows:
    - Clients who reject telemental health services in the informed consent process
    - Acutely violent or unstable clients with poor impulse control
    - Acutely suicidal clients
    - Severely decompensated clients with immediate need for hospitalization
    - Clients to whom services might be better delivered in person
    - Clients with specific mental illness symptoms that might be exacerbated by telemental health may need special consideration (e.g. ideas of reference regarding televisions).

Client Informed Consent

1. All clients must receive a full explanation of the risks and benefits of the service, and a written Telemental Health Informed Consent form must be obtained from the client or designee before beginning the use of telemental health services.
2. Having clients summarize their understanding of the informed consent for this type of service is required. Utilize the illustrations developed by Michael Krajnak that comes with Glickman's (2009) book may be helpful.
3. The original signed Telemental Health Informed Consent form must be included in client's chart and updated annually.
4. The client may terminate the use of telemental health services at any time.

Client Privacy and Confidentiality

1. Client will also understand and sign the standard therapy informed consent to treatment form, covering client privacy and confidentiality and the limitations to confidentiality.
2. Client privacy must be maintained at all times while receiving telemental health services.
3. Clients' sessions should not be viewed through the video by others without their knowledge or prior written consent.
4. If other personnel or visitors come into the video-receiving site, the client must be made aware of their presence.

Client Assessment

If possible, a comprehensive intake assessment needs to be completed face-to-face in order to accurately apply inclusion and exclusion criteria for telemental health services. A face-to-face visit may be completed in the home, hospital, office, clinic, etc.

Client Education

1. Client should receive training on using the videoconferencing equipment if s/he does not know how to use one.
2. Client must be given clear instructions as to who to ask for in case technical problems arise with the videoconferencing equipment.
3. Client needs to be informed that the videoconferencing equipment at the site is used for telemental health services only.

Administrative Procedures

1. Use secure lines for all telemental health sessions. If a secure line cannot be obtained, client must be informed about this during the informed consent process and the client should be given the choice to obtain service or not.
2. Changes in frequency or termination of telemental health sessions will be treated like changes in other parts of the plan of treatment and must be documented in client's record.
3. Testing of video connections prior to the first appointment with a client should be done to ensure video quality, especially if connecting with new video sites.
4. Full efforts should be made to enhance the video quality if the video deteriorates during a session.
5. In case of video equipment failure, a procedure to ensure prompt client contact and measures to ensure continuity of care must be in place (i.e. TTY call, e-mail, instant messaging, etc.).
6. Procedures must be in place to ensure that no identifying client information on the videoconferencing equipment is seen by mental health clients. Delete all dialed calls, calls received, and missed calls after each use.
7. Check with your liability insurance company to make sure that telemental health services will cover such services. If not, identify the ones that provide coverage.

Emergency Procedures

1. Emergency procedures will be developed in collaboration with the client and all appropriate providers.
2. Police phone numbers in client's location must be listed in the chart in case of an emergency. It is the therapist's responsibility to locate the phone numbers.
3. Phone numbers of client's primary care physician or psychiatrist must be listed in client's chart.
4. Potential emergencies should be discussed in advance with the client, and the possibility that a therapist may not receive online communication immediately should be addressed.
5. If the client expresses suicidal intention, a suicidal plan, the intent to harm oneself, or the therapist has suspicions that the severity of the client's suicidal thoughts and feelings are greater than expressed, the therapist will adhere to the following plan when conducting telemental health services:

a) Attempt to keep client connected on the videoconferencing equipment.
b) Ask the client to get nearest staff member at the video site.
c) If a staff member is not available, ask the client to identify his/her location and area code, then call police OR call your operator (dial 0), or area code + 555 1212 and ask for assistance in accessing the local emergency services for the client's location.
d) If the therapist does not have immediate access to another phone line, alert the client that you will be hanging up, calling for the nearest staff member, police, or appropriate emergency resource and calling back.
e) Ask the client to wait by the phone to receive your return phone call.

6. If the client verbalizes or shows strong or imminent probability of harm to another, the therapist will adhere to the following plan when conducting telemental health services:
    1. Make every effort to immediately contact the threatened individual directly.
    2. Inform local law enforcement authorities. If the therapist has no means of establishing contact with the threatened person, the therapist will contact appropriate local law enforcement authorities immediately.
    3. Inform the client that you are reporting the threat.

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